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RONALD L. PLESSER
202/861-3969

May 5, 1994

HAND DELIVER

Mr. William Caton
Secretary
Federal Communications Commission
1919 M Street, NW #222
Washington, DC 20554

Re: GEN Docket No. 90-314
Ex Parte Presentation

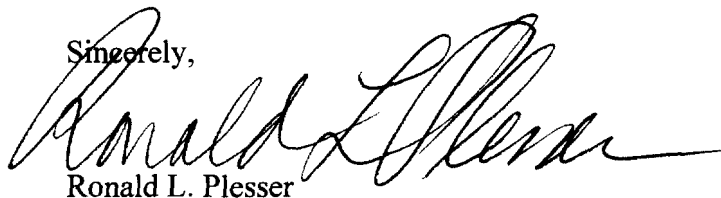
Dear Mr. Caton:

Pursuant to Section 1.1206 of the Commission's rules, this letter is to advise you that in my capacity as counsel to PCS Action, Inc., a coalition of companies to promote the deployment of PCS services, I met today with Michael Katz, Chief Economist, Office of Plans and Policy; Donald Gips, Department Chief, Office of Plans and Policy; and Gregory Rosston, Telecommunications Analyst, Office of Plans and Policy.

During this meeting, we discussed PCS Action's position with respect to the Commission's reconsideration of its Second Report and Order in the above-referenced proceeding, as reflected in previous filings of PCS Action in that proceeding. Copies of the attached PCS Action "Position on Reconsideration of Docket No. 90-314" and membership roster were provided to Messrs. Katz, Gips, and Rosston at this meeting.

In accordance with the Commission's rules, I hereby submit one original and one copy of this letter and its enclosures.

Sincerely,



Ronald L. Plesser

RLP/kap

cc: Mr. Michael Katz
Mr. Donald Gips
Mr. Gregory Rosston

Enclosures

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PCS Action's Position on Reconsideration of Docket No. 90-314

PCS Action urges the Commission to retain the key elements of its PCS *Second Report and Order*, including the designation of two 30 MHz licenses in Major Trading Areas ("MTAs"). The allocation of adequate spectrum to independent PCS licensees is crucial to providing effective competition to existing wireless and wireline providers.

The Commission, as it has done, must establish a PCS licensing scheme that is workable from the outset. The practicality and market viability of the Commission's licensing scheme cannot depend on a slow and inefficient aftermarket of gradual aggregation.

The amount of spectrum allocated to each PCS license block will critically affect both the *timing* of PCS deployment and the *viability* of PCS as an industry. Without adequate spectrum, delays in clearing spectrum would keep PCS from being launched until the end of the decade. By then, PCS could find itself chasing a market that existing service providers will have consolidated within existing monopolies and duopolies. The window of competitive opportunity would close, and the loser would be the American public with less competition, fewer jobs, and a small vision of PCS.

Recognizing this, NTIA recommended allocation of 30 MHz blocks, and the Commission has decided to issue two 30 MHz PCS licenses in MTA service areas. This will create greater certainty that an economically viable system will be created.

Frequency parity with incumbent wireless telecommunications providers also is essential if new PCS entrants are to provide effective competition. In-region cellular interests are entering the PCS era with 25 MHz of spectrum clear of microwave incumbents and will have the ability to bid for an additional 10 MHz of PCS spectrum in their cellular markets. Under the Commission plan, this will give cellular incumbents a total of 35 MHz. Independent PCS licensees would have just 30 MHz of spectrum encumbered by existing users, which is the minimum amount of spectrum needed to establish frequency parity.

To provide all potential licensees with 20 MHz of spectrum would result in the in-region cellular incumbents having a total of 45 MHz of spectrum. Independent licensees would be left with only 20 MHz. This disparity would jeopardize the rollout of PCS and crush the potential for new competition.

PCS must be licensed in blocks of 30 MHz or greater for the following reasons:

- Core markets are effectively blocked by existing microwave users (two way, 10 MHz each way), making service fatally defective in allocations of less than 30 MHz until all relocations have been accomplished.
- Incumbents have an absolute right to stay for three years (five years in the case of public safety, which constitutes 20 to 25 percent of all incumbents). Relocations will be time-consuming and difficult; five relocations per year per PCS licensee is the maximum that can be expected.
- Therefore, rolling out a competitive PCS service, even with an extremely aggressive relocation process, will require at least 30 MHz. The FCC has estimated that \$5 billion annually would be saved by consumers if cellular had effective competition.
- PCS also will never have the capacity to compete with local exchange carriers unless it has at least 30 MHz per licensee. Mercury One-2-One, which is attempting local loop competition in London, is at capacity in residential areas with 30 MHz of clear spectrum after only months of operation just because of the capacity needed for residential voice traffic.
- Equipment manufacturers support the need for licenses of at least 30 MHz.
- A licensing scheme predicated on the aggregation of 20 MHz splinters would delay and obstruct the creation of a viable independent PCS industry. It also would significantly reduce PCS auction revenues to the federal government. The FCC has an obligation to issue viable licenses in the first instance.

The FCC's allocation plan in the *Second Report and Order* has the dual virtue of competition and of workability at the outset. It results not in the *beginning* of deployable PCS systems, which must be completed through accumulation of "building blocks," but rather in *readily deployable and competitive* PCS systems. It should be maintained.

PCS ACTION, INC.

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Membership Roster

Service Provider Members:

- American Personal Communications/
The Washington Post Company
- Associated PCN Company
- Cox Enterprises, Inc.
- Crown Media
- MCI Telecommunications Corporation
- Omnipoint Corporation
- Providence Journal Company
- Times Mirror Cable Television, Inc.
- Time Warner Telecommunications

Manufacturing Members:

- Motorola Inc.
- Northern Telecom
- QUALCOMM, Inc.

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